

IC 3-11.5-6

Chapter 6. Counting of Absentee Ballots Cast on Ballot Cards

IC 3-11.5-6-1

Conditions for applicability of chapter; resolution

Sec. 1. (a) This chapter applies in a county only if the county election board adopts a resolution making this chapter applicable in the county.

(b) A copy of a resolution adopted under this section shall be sent to the election division.

(c) A county election board may not adopt a resolution under this section less than:

- (1) sixty (60) days before an election is to be conducted; or
- (2) fourteen (14) days after an election has been conducted.

(d) A resolution adopted under this section takes effect immediately and may only be rescinded by the unanimous vote of the entire membership of the county election board.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2. Amended by P.L.2-1996, SEC.204; P.L.3-1997, SEC.337.

IC 3-11.5-6-2

Conditions for applicability of chapter; ballot cards

Sec. 2. This chapter applies to the counting of absentee ballots cast on ballot cards.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-3

Time for counting ballots; personnel

Sec. 3. Immediately after:

- (1) the couriers have returned the certificate from a precinct under IC 3-11.5-4-9; and
- (2) the absentee ballot counters or the county election board has made the findings required under IC 3-11-10 and IC 3-11.5-4 for the absentee ballots cast by voters of the precinct and deposited the accepted absentee ballots in the envelope required under IC 3-11.5-4-12;

the absentee ballot counters shall, in a central counting location designated by the county election board, count the absentee ballot votes for each candidate for each office and on each public question in the precinct with the assistance of any persons required for the operation of the automatic tabulating machine.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-4

Count of ballots without interruption

Sec. 4. To minimize delay, the absentee ballot counters shall continue to count without interruption until all absentee ballots for the precinct are canvassed and the certificates required by this chapter are prepared and delivered to the person entitled to receive the certificates.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-5

Grouping of ballot cards

Sec. 5. The absentee ballot counters shall determine if the ballot cards are properly grouped and arranged so that all similar cards from a precinct are together before the ballots are counted on an automatic tabulating machine.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-6

Persons who may protest ballot

Sec. 6. During the tabulation of votes at a central counting location, an absentee ballot counter performing the count, a member of the county election board, or a representative designated by the member of the board may protest the counting of a ballot or part of a ballot cast by a voter of a precinct.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-7

Referring protested ballot to county election board

Sec. 7. If the absentee ballot counters cannot agree whether to count a ballot following a protest under section 6 of this chapter, the question shall be referred to the county election board for a decision.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-8

Notations on contested ballots

Sec. 8. Following a decision by the absentee ballot counters or the county election board:

- (1) the absentee ballot counters immediately shall write on the back of the protested ballot card the word "counted" or "not counted", as appropriate; and
- (2) the person protesting the ballot under section 6 of this chapter shall officially sign the protested ballot card.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-9

Damaged ballots unable to be machine processed

Sec. 9. If an absentee ballot is damaged or defective so that the ballot cannot properly be counted by an automatic tabulating machine, a remake team composed of one (1) person from each of the major political parties of the county shall have the card prepared for processing so as to record accurately the intent of the voter insofar as the intent can be ascertained.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-10

Duplicate copy of damaged ballot; witnesses

Sec. 10. If necessary, a true duplicate copy shall be made of the

damaged ballot card in the presence of witnesses and substituted for the damaged card.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-11

Duplicate copy of defective card

Sec. 11. A duplicate ballot card shall be made of a defective card, not including the uncounted votes.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-12

Duplicate cards; identification information

Sec. 12. All duplicate cards must:

- (1) be clearly labeled "duplicate"; and
- (2) bear a serial number that shall be recorded on the damaged or defective card.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-13

Counting of duplicate instead of defective card

Sec. 13. Each duplicate ballot card shall be counted instead of the damaged or defective card.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-14

Failure to test tabulating machines for particular office or question; manual tabulation

Sec. 14. If a test of automatic tabulating machines required by IC 3-11-13-22 or IC 3-11-13-26 is not conducted for a particular office or public question, the absentee ballot votes for that office shall be counted manually.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-15

Direction to manually count ballots

Sec. 15. If for any reason the county election board determines that it is impracticable to count all or some of the absentee ballots under this chapter with an automatic tabulating machine, the board may direct that the ballot cards be counted manually.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-16

Standards for manually tabulated vote count

Sec. 16. If ballot cards are counted manually, the tabulation of votes must comply with the standards prescribed by IC 3-11-7.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-17

Counting write-in votes for federal office

Sec. 17. IC 3-11.5-5-14 applies to the counting of write-in

absentee ballots for a federal office cast on a ballot card received under 42 U.S.C. 1973ff.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-18

Certification of vote count; time

Sec. 18. When all the votes have been counted, the absentee ballot counters shall prepare a certificate stating the number of votes that each candidate received for each office and the number of votes cast on each public question.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-19

Certification of vote count; formal requirements; memorandum

Sec. 19. The number of votes that each candidate and each public question received shall be written in words and numbers. The absentee ballot counters shall prepare a memorandum of the total votes cast for each candidate and on each public question and ensure that each member of the county election board receives a copy of the memorandum.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-20

Delivery of certificate of vote count; return of equipment

Sec. 20. The absentee ballot counters shall deliver the certificates prepared under section 18 of this chapter and the return printed by the automatic tabulating machine to the county election board immediately upon the tabulation of the vote in each precinct.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-21

Packaging counted ballots for storage

Sec. 21. As soon as the ballots have been counted, the absentee ballot counters shall in the presence of the county election board do the following:

- (1) Place in a strong paper envelope or bag the following:
 - (A) All ballots, voted and not voted, together with all protested and uncounted ballots.
 - (B) One (1) copy of each of the certificates prepared under IC 3-11.5-4-1 and IC 3-11.5-4-8.
 - (C) The tally papers.
- (2) Securely seal the envelope or bag.
- (3) Have both absentee ballot counters initial the envelope or bag.
- (4) Plainly mark on the outside of the envelope or bag, in ink, the precinct for which the absentee ballots were cast.
- (5) Deliver the envelope or bag to the circuit court clerk.
- (6) Notify the circuit court clerk of the number of ballots placed in the envelope or bag.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-22**Oath of ballot counters**

Sec. 22. Upon delivery of the envelope or bag to the circuit court clerk, each absentee ballot counter shall take and subscribe an oath before the clerk stating that the counter:

- (1) securely kept the ballots and papers in the envelope or bag;
- (2) did not permit any person to open the envelope or bag or to otherwise touch or tamper with the ballots; and
- (3) had no knowledge of any other person opening the envelope or bag.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-23**Filing of oath of ballot counters**

Sec. 23. The circuit court clerk shall file the oath taken under section 22 of this chapter with the clerk's other election documents.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-24**Locks for ballot storage containers**

Sec. 24. The circuit court clerk shall place the envelope or bag in a receptacle provided by the county executive with two (2) different locks.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-25**Keys to locks for ballot storage containers**

Sec. 25. The circuit court clerk shall do the following:

- (1) Lock the receptacle provided under section 24 of this chapter.
- (2) Retain one (1) key to one (1) lock of the receptacle.
- (3) Give one (1) key to the other lock of the receptacle to the member of the county election board who is not a member of the same political party as the clerk.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-26**Preservation of ballots; time requirements**

Sec. 26. The circuit court clerk shall preserve the receptacle containing the envelope or bag in the clerk's office for the period required under IC 3-10-1-31 or IC 3-10-1-31.1.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2. Amended by P.L.14-2004, SEC.146.

IC 3-11.5-6-27**Preservation of ballots; time requirements of contested elections**

Sec. 27. If the election is contested, the clerk shall preserve the receptacle containing the envelope or bag as long as the contest is undetermined. During those periods the clerk shall keep the receptacle securely locked, subject only to an order of the court

trying a contest.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-28

Destruction of stored ballots

Sec. 28. When permitted under IC 3-10-1-31 or IC 3-10-1-31.1, the clerk and a county election board member of the opposite political party shall remove the envelope or bag from the receptacle and destroy the envelope or bag.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2. Amended by P.L.14-2004, SEC.147.

IC 3-11.5-6-29

Contracts with educational institutions for destruction of ballots

Sec. 29. A county election board may contract with a state educational institution (as defined in IC 20-12-0.5-1) to dispose of the ballots. The contract must provide that:

- (1) the ballots will be used by the state educational institution to conduct election research; and
- (2) the state educational institution may not receive any ballots under this subsection until the period for retention under IC 3-10-1-31 or IC 3-10-1-31.1 has expired.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2. Amended by P.L.14-2004, SEC.148.

IC 3-11.5-6-30

News media certificate; preparation

Sec. 30. Immediately upon completion of the vote count, the absentee ballot counters shall make and sign a certificate for the news media showing the total number of absentee ballot votes received by each candidate and on each public question in the precinct.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-31

News media certificate; time and manner of release

Sec. 31. The absentee ballot counters shall deliver the certificate to the circuit court clerk as soon as the certificate is completed. The circuit court clerk shall deliver the certificate made for the news media to any person designated to receive the certificate by the editors of the newspapers published in the county or by the managers of the radio and television stations operating in the county immediately upon the completion of the certificate, but not before the closing of the polls.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-32

Release of voting information before closing of polls

Sec. 32. (a) This section applies to a person who observes or performs any of the following under this chapter:

- (1) The counting of absentee ballots.
- (2) The proceedings of absentee ballot counters or the county election board regarding a protested ballot.
- (3) The preparation of a certificate by absentee ballot counters.
- (4) The delivery of a certificate to the circuit court clerk or county election board.

(b) Except as prescribed by this chapter, a person shall not provide any other person with information concerning the number of votes:

- (1) a candidate received for an office; or
- (2) cast to approve or reject a public question;

on absentee ballots counted under this chapter before the closing of the polls.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-6-33

Conduct of recount

Sec. 33. In case of a recount, all ballot cards shall be recounted in the manner prescribed by this chapter unless:

- (1) the court ordering the recount or the state recount commission directs that the ballots be counted manually; or
- (2) a request for a manual recount is made under IC 3-12-6 or IC 3-12-11.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.